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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,239	08/02/2000	Stephen S. Miller		8087

30554 7590 06/17/2005

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EXAMINER

KNEPPER, DAVID D

ART UNIT PAPER NUMBER

2654

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/631,239

Applicant(s)

MILLER, STEPHEN S.

Examiner

David D. Knepper

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-17,20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-17,20 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

1. Applicant's correspondence filed on 4 January 2005 has been received and considered. Claims 1-7, 9-17, 20 and 22 are pending. Claims 8, 18, 19 and 21 have been canceled.

### **Title**

2. The title is objected to because it is too long. The terms "system and method for" should be deleted since they are more appropriate for distinguishing claim limitations.

3. The amendment filed 4 January 2004 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "wherein the voice-recognition application is in the command-mode, the method further comprises recognizing a voice input by a user as a command for an application that is identified from the voice input and that is different than an application in use with the voice recognition application in the text mode".

Applicant is required to cancel the new matter in the reply to this Office Action.

### **Claims**

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-7 and 9-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitation added to claim 1 that requires switching modes to also switch application does contradicts the specification which indicates that the switch is only for switching between text-mode and command-mode. The specification indicates the switch and related components are well known and can be made of any material, shape and size (page 10, lines 20-22) of specification. However, the functionality (see figure 4) fails to teach the need to change the application whenever switching to a command-mode from the text-mode.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. Claims 17, 20 and 22 are rejected under 35 U.S.C. § 102(a) as being unpatentable over Holt (5,960,447).

As per claims 17: Holt teaches a “system for switching between the command-mode of operation and a text-mode of operation” is taught by his voice/speech recognition...interpreting the spoken word relative to commands versus dictated words (col. 13, lines 53-56 and figure 2).

“voice-recognition software” (see his teaching of Once commonly employed speech recognition engine is the IBM VoiceType recognition engine);

“wherein when the voice-recognition software includes a software-executable switch that is manually operable by the user to switch the voice-recognition software between the command-mode and the text-mode” (this is taught in column 3 where he teaches that it is common to employ generic speech recognition with a variety of common software applications to allow both text-receiving... and including command/control, col. 3, lines 30-46 - see column 14 (especially lines 3-18) which list switches that would require a physical change in position to operate and would cause a change in mode of operation).

Claims 20 and 22: The ability to display alternates when recognition is unable to understand a command is taught by Holt who explicitly teaches that it is possible to retrieve and view the alternates to permit the user to select... in column 4, lines 24-26. This teaches that it is well known to allow a user to make corrections based on displayed lists of commands.

9. Claims 1-7, 9-16, 20 and 22 are rejected under 35 U.S.C. § 103 as being unpatentable over Holt (5,960,447).

As per claims 1, 2, 4, 9, 10-14, 17-19, 21 and 22: Holt teaches a “command-mode of operation and a text-mode of operation” with his voice/speech recognition...interpreting the spoken word relative to commands versus dictated words (col. 13, lines 53-56 and figure 2). The use of a “switch” is explicitly taught in column 14, lines 3-18.

“detecting a position change in a switching device and in response to detecting the position change, operating the voice” (see column 14 which list switches that would require a physical change in position to operate and would cause a change in mode of operation);

“wherein when the voice-recognition application is in the command-mode... an application that is identified... is different that an application in use” (this is taught in column 3 where he teaches that it is common to employ generic speech recognition with a variety of common software applications to allow both text-receiving... and including command/control, col. 3, lines 30-46).

Holt indicates a variety of hardware switches are clearly anticipated alternatives: keyboard key(s), mouse button(s), foot pedal(s), wireless switch/controller, or remote controller... The particular type of switch used is not critical. These alternatives and the alternative interfaces that may be used (col. 14, lines 16-18) indicate that software is inherent for his combination of elements to properly function together. Holt clearly teaches that it is known to change the mode of operation using any well-known type of switch.

It is noted that he does not explicitly teach that when changing the mode of operation, that the recognition should also include a command for a different application. However, he teaches that it is well known to use speech commands for a variety of applications in col. 3 as noted above. He specifically teaches that a variety of software may be combined with speech

recognition to include command/control of physical systems. Therefore, it would have been obvious to utilize different commands to control different software applications to affect the control of different systems because he teaches that this is well known to those skilled in the art.

Claim 3: Turning the microphone on only during operation is obvious in view of his teaching of well-known auto level and automatic gain control to provide consistent recording levels (col. 13, lines 10-37). It is also noted that the mode selection is explicitly taught in col. 14, lines 6-7 as the switch function only when activated which would suggest that the input from the microphone would off when the switch is off.

Claims 5-7: It is noted that Holt does not explicitly teach “spring-controlled slide switch” with multiple positions. However, Holt explicitly teaches that a wide variety of switches may be used and that the particular type is not critical (see above). The applicant admits that a person of ordinary skill would be able to modify a system for use with a slide switch (paper #6, received 8 May 2004) on page 9, line 13-14. Therefore, the teachings of Holt and the applicant’s admission show that these and other types of switches would have been obvious.

Claims 15, 16: The use of “infrared” or “radio frequency” are obvious implementation of the wireless and/or remote controller teachings of Holt (col. 14, line 14-16) because one of ordinary skill in the art knows that these are common transmission methods that enable wireless connections and/or remote control functions to be transmitted and received.

Claim 20: “The system prompts the user to select the intended command” is an obvious part of the enrollment and/or correction process as suggested by Holt in column 12: enrollment process requires various keyboard and display screen interaction with the user (lines 1-2) and the user is allowed to make corrections (line 17). This ability is common to speech recognition as

Holt suggests in column 4, line 22-24: the recognition engine 52 yields alternate possible words for an utterance.

**Response**

10. The applicant presents no arguments against the specific showings of the prior art noted above. The new matter added to the claims is addressed with a new objection and rejection because the applicant's specification fails to show any support for changing applications as claimed. To the contrary, the specification indicates that spoken commands may be directed to a current application and neither the previous claims nor the specification supports the limitation added which not only switches between the well-known alternatives of recognizing speech for the purpose of indicating a particular command or dictation of text, but also requires that some particular software application must also change.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Knepper whose telephone number is (571) 272-7607. The examiner can normally be reached on Monday-Thursday from 07:30 a.m.-6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (571) 272-7602.

For the Group 2600 receptionist or customer service call (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028 between the hours of 6 a.m. and midnight Monday through Friday EST, or by email at [ebc@uspto.gov](mailto:ebc@uspto.gov). For general information about the PAIR system, see <http://pair-direct.uspto.gov>.



David D. Knepper  
Primary Examiner  
**Art Unit 2654**  
May 19, 2005